

Attorney's Docket: 2002DE134
Serial No.: 10/669,973
Group: 1714

REMARKS

The Office Action mailed September 15, 2005, has been carefully considered together with each of the references cited therein. The amendments and remarks presented herein are believed to be fully responsive to the Office Action. The amendments made herein are fully supported by the application as originally filed. No new matter has been added. Accordingly, reconsideration of the present Application in view of the above amendments and following remarks is respectfully requested.

CLAIM STATUS

Claims 1-24 are pending in this Application. By this Amendment, Applicants have amended paragraphs [0035] and [0041] of the specification. Claims 1, 9, 15-17, 21 and 22 have been amended while new claims 25-37 have been added. Claims 2, 3, 8, 10-14 have been cancelled. The claims under consideration are, therefore, believed to include claims 1, 4-7, 9, 15-37.

Specification

The Office objects to paragraph [0041] of the specification, characterizing melamine phosphate as organic.

Paragraph [0041] has been amended to delete melamine phosphate while [0035] has been amended deleting the phrase melamine phosphate.

Claim Rejection Under 35 USC § 112, First Paragraph

Claim 14 stands rejected under 35 USC § 112, first paragraph, as failing to comply with the enablement requirement. Claim 14 has been cancelled and thus, the 35 USC § 112, first paragraph, rejection is now moot.

Claim Rejections Under 35 USC § 112, Second Paragraph

Claims 1-15 and 21 and 22 stand rejected under 35 USC § 112, second paragraph, as being indefinite. The Office finds the claims incomplete for "omitting essential elements, such omission amounting to a gap between the elements". The

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Attorney's Docket: 2002DE134
Serial No.: 10/669,973
Group: 1714

Office finds the omitted element to be thermosetting resins. Independent claim 1 has been amended to recite the presence of at least one thermosetting resin. The Office finds the term "resorcinoldiphosphate" misspelled in claim 10. Claim 10 has been amended to correct this inadvertent misspelling. In addition, paragraph [0035] now recites the correct spelling.

In view of the forgoing amendments and remarks it is respectfully believed that the 35 USC § 112, second paragraph, rejections have been overcome.

Claim Objections

Claim 16 stand objected to under 37 CFR § 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Claim 16 has been amended to recite a flame retardant thermoset article comprising a flame retardant thermoset composition as claimed in claim 1. In view of this amendment, it is respectfully believed that the claim objection has been overcome.

Claim Rejections Under 35 USC § 102

Claims 1-14 and 16-24 stand rejected under 35 USC § 102(d or e) as being anticipated by Horold 6,420,459 or Heinen et al. 6,646,030. This rejection is respectfully overcome.

With respect to Heinen, such reference discloses a flame retardant composition comprising melem, melam and melamine and higher condensation products of melamine and/or melem.

Given the amendment to independent claim 1, it is respectfully contended that Heinen no longer anticipates Applicants' claimed invention. Specifically, Heinen fails to disclose, teach or suggest a thermoset composition comprising a phosphate compound of formula (I) or (II), an organic compound as defined in claim 1 in combination with the nitrogen compound as specified in the claim. As Heinen does not disclose each and every element of the claimed combination, it is respectfully contended that Heinen can not anticipate claim 1, or any claims depending therefrom.

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Serial No.: 10/669,973
Group: 1714

Concerning Horold, such reference discloses a flame retardant thermoset composition having a diphosphinic acid one synergistic compound. According to Horold only one synergistic compound is enclosed in the thermoset composition. As Horold does not disclose, teach or suggest a second synergistic compound, it is respectfully contended that Applicants' amended claims are not anticipated thereby.

In view of the above, it is respectfully contended that the 35 USC § 102(b or e) rejections have been overcome.

Claim Rejections Under 35 USC § 103

Claims 1-14 and 16-24 stand rejected under 35 USC § 103(a) as being unpatentable over Horold 6,420,459, or Heinen et al. 6,646,030. This rejection is respectfully overcome.

The Office takes the position that "it would have been obvious to one of ordinary skill in the art at the time the invention was made, to select applicants' ingredients from a list of equivalents."

With respect to Heinen, it is respectfully contended that Heinen does not disclose, teach, or suggest a nitrogen compound as defined by independent claim 1. As Heinen must provide the requisite motivation for one with ordinary skill in the art to arrive at the combination with the nitrogen compound as recited in the claims, it is respectfully contended that Applicants' invention, as defined by the claims, is not made obvious thereby.

Concerning Horold, as discussed above, Horold discloses only one synergistic compound. Horold is entirely silent to the presence of a second synergistic compound. As Horold fails to disclose, teach, or suggest a second synergistic compound of those listed in amended claim 1, one with ordinary skill in art could derive no motivation there from to arrive at the instantly claimed invention. It is, therefore, courteously believed that Applicants' claimed invention is not made obvious by Horold.

Attorney's Docket: 2002DE134
Serial No.: 10/669,973
Group: 1714

In view of the foregoing amendments and remarks, it is respectfully contended that the 35 USC § 103(a) rejections have been overcome. In consequence, Applicants courteously solicit reconsideration and withdrawal of the rejection.

Allowable Subject Matter

The Office states that claim 15 would be allowable if rewritten to overcome the rejections under 35 USC § 112, second paragraph and to include all of the limitations of the base claim and any intervening claims. By this Amendment, claim 15 has been rewritten in independent form and is now in condition for allowance.

The Commissioner is hereby authorized to charge deposit account 03-2060 \$300.00 for the additional dependent claims. The Commissioner is also authorized to credit any overpayment or charge any fee deficiency to Deposit Account No. 03-2060.

In view of the forgoing amendments and remarks, the present application is believed to be in condition for allowance, and reconsideration of it is requested. If the Examiner disagrees, he is requested to contact the attorney for Applicants at the telephone number provided below.

Respectfully submitted,



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